



International Journal of Research in Academic World



Received: 05/July/2024

IJRAW: 2024; 3(8):51-55

Accepted: 02/August/2024

The Creation of India that is Bharat: A Comparative Study of Austin Granville's The Indian Constitution and Shyam Benegal's "Samvidhaan: The Making of Constitution of India"

*¹Disha Tripathi*¹Student, Amity School of Languages, Amity University, Lucknow, Uttar Pradesh, India.

Abstract

This research paper reconnoiters the enthralling story of the making of the Constitution of India. It takes forward the comparative analysis of the two notable works that revolve around the creation of the Indian constitution: Austin Granville's "The Indian Constitution" and Shyam Benegal's documentary "Samvidhan: The Making of Constitution of India. Moreover, it also investigates how these two mediums of study reveal the origin, evolution, and creation of The Indian Constitution while using an incorporative approach. It enlightens the role of well-informed key personalities in creating a pivotal moment in the history of India. Moreover, the work of the Constitution is reflected in this paper, through selective topics such as Fundamental Rights and duties moreover the focus is to create a basic understanding of the Indian Constitution.

Keywords: Constitution, nationalism, fundamental rights, fundamental duties.

Introduction

'The Creation of India that is Bharat 'has been a set of complex processes structured by the history of colonial times. Colonialism refers to the domination of one country over the economic condition and physical boundary of another country to focus on economic gains more especially. India was a colony of Britishers from around 1757 when the East India Company started extending its control over India and this colonialism lasted till 1947 until when India got freedom from their rule.

The freedom we as Indians got is the result of hardship faced by eminent leaders like Mahatma Gandhi-the father of the nation, Rani Laxmi Bai, Jawaharlal Nehru, Sardar Vallabh Bhai Patel, etc. of the Indian National Movement whose struggle helped in shaping a collective National Identity in hearts of rich diversity in India.

The constitution of India is the primary document that contains the supreme laws of how the nation should be framed and governed. It contains a framework of fundamental rights and duties of citizens as well as explaining the structure and functions of government to establish the rule of law and equality.

The fundamentals of The Indian constitution will be clearer with this comparative study of Austin Granville's The Indian Constitution and Shyam Benegal's "Samvidhan: The Making of Constitution of India" focusing on some specific topics.

Concept of Nationalism

The Idea of Nationalism emerged in France when the elites and monarchial rule became dominant and expressed its supremacy over the common will of the people. The question that arose was who will replace the monarchy? The answer to this question traces its significance from the concept of origin of Nation, whose idea was a single political body which gains political authority and identity from its people.

The concept of Nationalism draws its roots from the ideology of Political independence. It revolves around the interest of the people of the nation to be united and the quest for a sovereign nation free from the influence of any external power. It can have various forms which include Cultural Nationalism, Civic Nationalism, and Ethno-Nationalism. Cultural Nationalism is based on the idea of culture, its values, and heritage whereas Civic Nationalism is based on shared ideas of civil liberties and citizenship.

In the words of Benedict Anderson Nationalism is defined as- "Nationalism is an imagined political community-and imagined as both inherently limited and sovereign." This definition states that nations do not exist naturally but are made by shared beliefs, culture, and values, having a physical as well as conceptual boundary that doesn't include all human beings but the people who fit the best in its criteria of belonging. Moreover, that nation can govern itself and is not dominated by any external power.

Nationalism in India developed in the late 19th century in response to the colonial rule of the British. Events like the Jallianwala Bagh Massacre, the Rowlatt Act, and the use of Enfield Rifle added fuel in the development of Nationalistic ideas in the hearts of people. The idea was put into shape by leaders like Mahatma Gandhi who sought to develop unity among diverse groups to lead India to gain independence.

About Austin Grandville and Shyam Benegal

Austin Grandville

Grandville Seward Austin born in 1927 was an American historian of the constitution of India. He received his education in Norwich, Vermont, USA.

He graduated from Dartmouth College after completing a B.A. in American Literature. His pioneering works include works on-“The Indian Constitution: Cornerstone of a Nation” and “Working a Democratic Constitution: The Indian Experience”. His books cover authoritative texts based on the scholarly approach of understanding the framing and working of the Indian Constitution.

The landmark judgments mentioned by him in his book “Cornerstone” are often quoted by Supreme Court Judges in many cases. He received the Padma Shri, India’s fourth-highest civilian honor in 2014.

Shyam Benegal

Shyam Benegal was born on 14 December 1934 in Tirumalagiri, a state in Hyderabad which is now presently in Telangana. He is considered to be the founder of the Parallel Cinema Movement in India. His first feature film was ‘Ankur’ in 1974 in which he introduced Shabana Azmi. He is known for bringing realistic issues through films with simplified language appealing to the hearts of the audience. His notable works include ‘Kalyug’, ‘Bhumika’, ‘Netaji Subhash Chandra Bose’, etc. He also portrayed the making of the Indian Constitution through his creation of the web series ‘Samvidhan.’

He received two of the highest Indian Civilian awards-Padma Shri in 1976 and Padma Bhushan in 1991.

Granville Austin's “The Indian Constitution”-

He published his book ‘The Indian Constitution in 1966 which deals with a comprehensive and authoritative way of explaining the drafting process of the constitution. Austin Grandville was an American Scholar who was deeply interested in India’s Constituent Assembly and its proceedings. He drew upon his extensive research to bring a detailed and engaged chronicle moreover he also interviewed eminent personalities like Jawaharlal Nehru to understand in depth. The book is divided into three parts which convey details in order.

- Part 1 focuses on the early years of the Constituent Assembly.
- Part 2 focuses on the drafting process
- Part 3 focuses on the adoption and implementation of The Constitution.

He provided a detailed pattern of debates, negotiations, and compromises that shaped the Constitution with a scholarly approach of looking at every topic. The use of captivating language is very evident and the titles of the chapters prove the same, for ex-” The Constituent Assembly-Microcosm in Action ”, “The Executive-Strength With Democracy,” “ Federalism-The Amicable Union-I” etc. He took the references of many influential members of the Constituent

Assembly in his book, but the most influential among them were Rajendra Prasad, Sardar Patel, Maulana Azad and Jawaharlal Nehru whom he mentioned as “Oligarchy”. "In addition, Pant, Sitaramayya, Ayyar, N. G. Aiyengar, K.M Munshi, B.R Ambedkar, and Satyanarayan Sinha also constituted important role in the assembly.

Austin Grandville has tried to convey every detail regarding India and its constitution at his best be it starting the chapters with reference of Cabinet Mission Plan or involving the instances of Objective Resolution by Pd. Jawaharlal Nehru introduced the Karachi Resolution passed by the Indian National Congress, however talking about my point of view his narrative is detailed making it challenging for readers like me without having a strong background in Constitutional Law to interpret and compare.

Shyam Benegal's "Samvidhan: The Making of the Constitution of India"

‘Samvidhan’ consists of a series of 10 episodes directed by Shyam Benegal which was aired in 2014. This series is sponsored by Rajya Sabha. His way of glorifying and conveying the instances of the making of the Indian Constitution is commendable as he uses the approach of audio-visual medium which appeals better than the literary medium to a novice. He collaborated with scriptwriters like Shama Zaidi and Atul Tiwari who also played the role of Govind Ballabh Pant to produce an alluring creation. In the series of 10 episodes, every episode is marked with some specific subject of the drafting process. The first episode starts with Cabinet Mission as introduced by Austin Grandville in the starting chapters, episode three throws light on Fundamental Rights, and Episode4 talks about the rights of people along with their duties as citizens of India. The series ends with the Introduction to the Preamble which is the philosophical vision document of our constitution. Through the series Shyam Benegal features a talented cast, including actors who portray key figures such as Dalip Tahil as Jawaharlal Nehru, Neeraj Kabi as Mahatma Gandhi, Tom Alter as Maulana Azad, Utkarsh Mazumdar as Sardar Vallabhbhai Patel, Sachin Khedekar as Dr. B.R. Ambedkar, Ila Arun as Hansa Mehta, Rajeswari Sachdev as Amrit Kaur etc. I found this series more helpful while developing an understanding of the basics of The Indian Constitution as we go through a journey of setting Objectives of the Constitution, its Fundamental rights, directive principles, safeguarding the rights of minorities. Swara Bhaskar’s anchoring is commendable as her way of narrating the events was not only engaging but also impressive using a mix of languages, that is English, Hindi, and Urdu. The use of national anthem in background music generates a sense of patriotism every time a person watches the series.

The Indian Constitution

“Constitution is not a mere lawyers’ document, it is a vehicle of Life, and its spirit is always the spirit of Age.”-B.R. Ambedkar

The Indian Constitution is an important framework of rights and laws framed by the Constituent Assembly which was formed in the year 1946. There was a total of 299 members in the Constituent Assembly. The president of this assembly was Dr. Rajendra Prasad. Moreover, to design the constitution a Drafting Assembly was formed with Dr. B.R. Ambedkar as its chairman. The contribution of Dr. B.R. Ambedkar is so significant hence he is called the ‘Father of the Indian Constitution’. It took 2 years 11 months and 17 days to create

the constitution of India being the longest constitution in the world. It was adopted on 26th November 1949 and came into effect on 26 January 1950. It contains 25 parts, 12 schedules and 448 articles whereas it contained 22 parts, 395 articles, and 8 schedules when it was first published.

The Making of Indian Constitution (A Comparative Study)

Constitution is a symbol of nation and talking about nation Socialist scientist say or explain that the people of one race, one religion, one language, one flag and following the same laws constitute a nation as mentioned clearly in 'Episode 1 of Samvidhan'.

1. The Fundamental Rights

The Fundamental Rights are the basic rights for mankind provided by the Indian Constitution. They constitute Part III of the constitution containing Article 12-35. When the Constitution came into effect 7 major rights were there but after the 44th Constitutional amendment Right to property was removed as it proved to cause hindrance in achieving the goal of Socialism.

There are 6 Fundamental Rights in the Indian constitution listed below-

- i). Right to Equality which includes Articles 14-18
- ii). Right to Freedom which includes Articles 19-22
- iii). Right against Exploitation which includes Articles 23-24
- iv). Right to Freedom of Religion which includes Articles 25-28
- v). Cultural and Educational Rights which includes Articles 29-30
- vi). Right to Constitutional Remedies which includes Articles 32-35

The right to freedom further includes.

- Freedom of speech
- Freedom of expression
- Freedom of assembly without arms
- Freedom of association
- Freedom to practice any profession.
- Freedom to reside in any part of the country

In the 'Episode 3' of 'Samvidhan' Alladi Krishnaswamy gave his view about the constitutions of Ireland and America in which the Fundamental Rights were protected by law and hence the concept of Fundamental Rights is borrowed from the Constitution of the United States. B.R. Ambedkar's statement when the Fundamental Rights were being criticised for not being absolute was that "Fundamental Rights are gift of state, which doesn't mean the state cannot qualify those laws' This is the a reflective why the fundamental rights are subject to restrictions during the times of Emergency.

Article 18 which talks about the Abolition of Titles was put forward by Professor K.T Shah and Sardar Patel and presented Fundamental Rights in two subdivisions First were those enforceable by a court of law and second were the Directive Principles of the state Policy from the reference of 'Samvidhan'.

The recommendations of Rajkumari Amrit Kaur and Hansa Mehta about the inclusion of inter-religious marriage in Fundamental Rights were not included in the Fundamental Rights.

Talking about Austin Grandville he started the jest of Fundamental Rights by mentioning Part III i.e. Fundamental Rights and Part IV as 'Conscience of the Constitution'. The

stated demand for fundamental rights at first appeared in The Constitution of India Bill, of 1895. Article 16 of the Bill explained a variety of rights including those of free speech, imprisonment only by the competent authority, and Free State education.

Some articles which are mentioned in his book are Article 17 which talks about the abolition of untouchability, Article 15(2) which lays down that no citizen shall suffer any disability in the use of shops, restaurants, wells, roads, and other public places on account of his religion, race, caste, sex, or place of birth; Article 23 which prohibits forced labor and trafficking in human beings. The Right to Constitutional Remedies includes some writs, which are the formal order issued by judicial body whose inclusion has been made by K.M. Munshi in his draft which included two clauses-The first claimed that every citizen has right to move to court to enforce writs and the second was naming these writs as Habeas Corpus, Mandamus, Prohibition and Certiorari.

2. The Directive Principles of State Policy

Talking about the DPSP which are the non-justiciable rights which means they cannot be enforced by the court of law the major concern came from Naziruddin Ahmad who said without making the principles enforceable what will be the need for DPSPs. Z.H. Lari's recommendation of including the Right to education was included in the Directive Principles of State Policy by the assembly members. There is a discussion between Sir Benegal Rau and Dr. Rajendra Prasad is presented in 'Episode 4 of Samvidhan' where Dr. Rajendra Prasad raises his concern about how to guarantee the DPSPs in the constitution. What if the government cannot enforce them? What will be the punishment if they are not enforced? Sir Benegal's answer was simple yet sufficient that the point of giving punishment would be decided if we make these rights justiciable, which they are not they provide directions to reach the dream destination and will be fruitful for the future government to establish social, economic, and political justice.

Austin Grandville while explaining about DPSP mentioned them as the 'Principles that are not justiciable' but 'Fundamental in Governance of country'. The idea of DPSP IS taken from the Sapru Report published at the end of 1945 and the Karachi revolution of 1931 as mentioned in the book which are defined as ideals to keep in mind while formulating any policies or laws. The answer to members questions on DPSPs-what their objective is and against whom they can be expressed was given by Dr. B.R. Ambedkar that the DPSP must be included in the constitution to give direction to the Executive and legislature on how they can exercise their control and to show in what manner they can exercise their power for the welfare of people. Hence the DPSPs were adopted in the constitution based on Sir Benegal Rau's draft which said that the state must provide a good level of nutrition, provide standard living conditions (Article 47), and promote international peace between nations (Article 51). The provision of including the improvement of agriculture and animal husbandry (Article 48) and the prohibition on cow slaughter (Article 48) was also added to the Directive Principles.

3. Fundamental Duties

Fundamental duties are the moral obligations of all citizens laid down by the constitution of India to promote the spirit of Patriotism and uphold the unity of the nation. They were added to the constitution in the year 1976 on the

recommendations of the Swaran Singh Committee. They are mentioned in Part IV A of the Indian Constitution i.e. Article 51(A) of the Indian Constitution mentions 11 Fundamental Duties out of which 10 were added in the constitution by the 42nd Amendment Act in 1976 and the 11th duty was added by 86th amendment in the year 2002.

The topic of Fundamental Duties was introduced by K.T Shah in 'Samvidhan,' where he cites that while making the constitution everyone was concerned about the rights guaranteed to the citizens by the Indian Constitution, and no one talked about the obligations that citizens should have towards the nation. Being responsible citizens and talking about our duties towards the nation is equally important as talking about the rights guaranteed to us. However, it took almost 25 years after the making of the Constitution to adopt Fundamental Duties as an important aspect of the Nation.

Austin Grandville in his book has also given little reference to Fundamental Duties, which must be because they were not adopted at the time of the making of the Constitution. In a conversation of Sir Benegal Rau with Frankfurter, an amendment was proposed by him which was 'designed to secure that when a law is made by the State in the discharge of one of the fundamental duties imposed upon it by the Constitution and happens to conflict with one of the fundamental rights guaranteed to the individual, the former should prevail over the latter; in other words, the general right should prevail over the individual right'. This means when the state needs to follow its duties and the conflict arises between fundamental rights and duties, the state may limit an individual's right for the greater good.

5 of the Fundamental Duties are-

- i). To abide by the Constitution and respect its ideals and institutions.
- ii). To cherish and follow the noble ideals of the struggle for freedom.
- iii). To uphold and protect the sovereignty, unity, and integrity of India.
- iv). To defend the country and render national services when called upon to do so.
- v). 11th Fundamental Duty Parent or guardian must provide their child or ward aged between six to fourteen years, an opportunity to pursue education.

Judiciary

The Independence of Judiciary

The Independence of the judiciary is another important topic when discussing the basics of the Indian Constitution. To ensure fair justice for all citizens it is very important for the Judiciary which is called 'The Guardian of Fundamental Rights' to be free from the influence of administration and the Legislature (The law-making body).

Article 50 of the Indian Constitution talks about The Independence of the Judiciary stating "The state shall take steps to separate the judiciary from the executive in the public services of the state"

Talking about the concept of the Supreme Court, I'm taking the reference of Justice Srinivas Varadachariar's statement from Episode 9 of 'Samvidhan' where he mentions a body should be there i.e. Supreme Court where judgments of High Courts are put to appeal. Alladi. Krishnaswamy Iyer mentions Supreme Court should be the body to safeguard the rights i.e. Fundamental Rights of all Individuals. The decision of the ad hoc committee whose head was Justice Srinivas was-There would be the freedom of the Judiciary, selection of the High

Court and Supreme Court judges would have no interference from the Cabinet members.

Austin Grandville in his book mentioned the recommendations of the Sapru Committee which cites that 'the justices of the Supreme Court, and the High Courts should be appointed by the head of state in consultation with the Chief Justice of the Supreme Court and, in the case of High Court judges, in consultation additionally with the High Court Chief Justice and the head of the unit concerned', The book also mentions about the concern of Independence of the Judiciary raised by H.J. Kania who was the then CJ of Federal court where he suggested that the Draft Constitution should cover the relationship of the Executive with the Judiciary so that the courts would be free from suspicion of Executive control.

Comparison and Contrast

Both Austin Grandville and Shyam Benegal aim to educate viewers about the making of the Indian Constitution however they differ in their way of approach.

Similarities-

- i). **Historical Context and Focus:** Both works focus on the historical significance and the drafting process of the Indian Constitution. They educate us about the Constituent Assembly, its discussions, and debates.
- ii). **Pedagogical Approach:** The pedagogical approach relates to the ways of teaching, and both works focus on educating the viewers and readers about the importance of the creation and adoption of the Indian Constitution.
- iii). **Emphasis on Indian Nationalism:** Nationalism relates to the strong feeling of patriotism towards a nation and both Austin Grandville and Shyam Benegal portrayed the Indian constitution as the successful epitome of nationalism.
- iv). **Basic Reliance on Primary Sources:** Both works rely majorly on primary resources such as the records, speeches, debates, and documents from the constituent assembly to ensure reliability and factuality.
- v). **Punctilious Research:** Both works include comprehensive research to include accurate information to target the audience bringing historical events in a row through storytelling and dramatization.

Differences

- i). **Approaching Medium:** Austin's book is based on the scholarly approach involving comprehensive and legal analysis to make the information available to the readers whereas Benegal's Samvidhan is based on dramatization involving the aspects of storytelling to inform the general audience.
- ii). **Feminine Representation:** Austin Grandville's book primarily focuses on whom he called "Oligarchy" i.e. Jawaharlal Nehru, Sardar Patel Rajendra Prasad, and Maulana Azad while involving little reference to leaders like Rajkumari Amrit Kaur, Hansa Mehta, etc whereas The web series by Shyam Benegal represents women's role as strong subjects challenging the stereotypes with Hansa Jivraj Mehta Ji presenting National Flag to the country on the behalf of Women of India.
- iii). **Showcasing Nehru's Dominance:** Austin's book tends to decenter Nehru's dominance at times overshadowing his work over the rest of Constituent Assembly Members whereas Benegal's series do portray Nehru's significant role but doesn't display it as being the centrally dominant in Constituent Assembly while including the efforts of

leaders like Rajkumari Amrit Kaur, V.I.Muniswamy Pillai, Jaipal Singh Munda in considerable detail.

- iv). **Presentation of Events:** The book by Austin Grandville presents events in a linear chronological manner, focusing majorly on legal outcomes whereas Benegal's series involves an engaging format to educate the general audience in an easy to understandable manner.
- v). **Reference of Personal Events:** Austin's book reflects little to no representation of personal events beyond the scope of Constituent Assembly discussions, however, Shyam Benegal portrayed these events beautifully while showcasing communication between Mahatma Gandhi and Babu Jagjivan Ram or the Conversation between Rajkumari Amrit Kaur and Hansa Mehta.

Conclusion

The creation of the Indian Constitution was a crucial work that required the proper balancing of ideas of Equality, Liberty, Fraternity, sovereignty, and democracy to provide the people with an optimistic approach to looking into the nation and its ideals. The Constituent Assembly's hardworking nature amidst all the challenges ignited the spirit of the Creation of the Indian constitution following the concept of to the people for the people and by the people.

In conclusion, both Austin Granville and Shyam Benegal with their differing medium of approaches in their works provide us with the same intention of inculcating the basic knowledge about the Indian Constitution. The choice lies with readers if one wants to have a detailed scholarly analysis Austin Granville's work is suited for him whereas if the person wants to have a basic understanding through simple yet engaging means, Shyam Benegal's audio-visual representation is best suited for him. Both works involve an interdisciplinary method of educating people the difference lies in the complexities of approach.

References

1. The Indian Constitution: Cornerstone of a Nation-Grandville Austin.
2. Samvidhan-The making of Constitution of India by Shyam Benegal-Rajya Sabha TV telecast.
3. Byjus.com
4. www.legalserviceindia.com
5. indianexpress.com.
6. Austin, Granville. The Indian constitution: cornerstone of a nation. Oxford university press, 1966.
7. Samvidhan: The making of the constitution of India. Directed by Shyam Benegal, Rajya Sabha TV, 2014.
8. Byju's. "The making of the Indian constitution." Byju's, <https://byjus.com>.
9. "The Indian constitution: structure and features." legal service India, <https://legalserviceindia.com/article/1299-the-indian-constitution.html>.
10. The Indian constitution: its journey and significance. "The Indian express," <https://indianexpress.com/article/india/the-indian-constitution-its-journey-and-significance-6240200/>